



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्रतिभक्त से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 32] नई दिल्ली, शुक्रवार, जुलाई 28, 1978/श्रावण 6, 1900
No. 32] NEW DELHI, FRIDAY, JULY 28, 1978/SRAVANA 6, 1900

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 28th July, 1978:—

I

BILL NO. X OF 1978

A Bill to amend the Sick Textile Undertakings (Nationalisation) Act, 1974.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Sick Textile Undertakings (Nationalisation) Amendment Act, 1978.

Short title.

57 of 1974.

2. In the Sick Textile Undertakings (Nationalisation) Act, 1974, for the Second Schedule, the following Schedule shall be substituted, namely:—

Substitution of new Schedule for the Second Schedule.

“THE SECOND SCHEDULE

[See Sections 21, 22, 23 and 27]

Order of priorities for discharge of liabilities in respect of a sick textile undertaking.

PART A

Category I.—

Arrears in relation to provident fund, salaries and wages, and other amounts, due to an employee.

PART B

Post-take-over management period

Category II.—

- (a) Loans advanced by a bank.
- (b) Loans advanced by an institution other than a bank.
- (c) Any other loan.
- (d) Any credit availed of for purpose of trade or manufacturing operations.

Category III.—

- (a) Revenue, taxes, cesses, rates or any other dues to the Central Government or a State Government.
- (b) Any other dues.

PART C

Pre-take-over management period

Category IV.—

Secured Loans.

Category V.—

Revenue, taxes, cesses, rates or any other dues to the Central Government, a State Government, a local authority or a State Electricity Board.

Category VI.—

- (a) Any credit availed of for purpose of trade or manufacturing operations.
- (b) Any other dues.”.

STATEMENT OF OBJECTS AND REASONS

Section 21 of the Sick Textile Undertakings (Nationalisation) Act, 1974 provides that the claims arising out of the matters specified in the Second Schedule shall have priorities in accordance with the principles laid down therein. One of these principles is that category I will have precedence over all other categories and category II will have precedence over category III and so on. Section 27 *inter alia* provides that any liability arising out of any item specified in category I of Second Schedule not fully discharged by the Commissioner out of the amount paid to him under this Act, shall be assumed by the Central Government.

In the Second Schedule, category I includes items such as loans advanced by a bank or by an institution other than a bank or any other loan; category II includes revenue, taxes and other dues to the Central or State Government or any other dues and category III includes arrears in relation to provident fund, salaries and wages and other amounts, due to an employee.

In this scheme of the Act, the claims of the employees by way of arrears of provident fund, salaries and wages, etc., which are not loan but 'Trust money' misappropriated by the employers and not realised by the Government in time, can be entertained only after liabilities on items such as bank loans, taxes, etc. are satisfied. In most cases the amount available for disbursement is appropriated in satisfying these claims and the claims of the employees go by default. It is felt, that it is not just and fair to deprive the employees of their savings of a life time in the form of provident fund. It is, therefore, necessary to protect the interests of the employees by providing for priority to their claims in respect of arrears of provident fund, etc. over all other items in the Second Schedule and to substitute a new Schedule for the Second Schedule for this purpose.

The Bill seeks to achieve this object.

JAGJIT SINGH ANAND

II

BILL No. VIII OF 1978

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Constitution (Amendment) Act, 1978.

Amend-
ment of
article 217.

2. In article 217 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

“(1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal on the recommendation of a Selection Committee consisting of the Chief Justice of India, the seniormost Judge of the Supreme Court, the Attorney-General for India, the Chief Justice of the High Court to which the appointment is to be made, the Solicitor-General for India and Chief Justices of any other two High Courts, made from out of the names submitted by a Panel consisting of the Advocate-General for the concerned State, the President of the Bar Council of the concerned State and the seniormost Judge of the High Court to which the appointment is to be made, and shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty-two years:

Provided that—

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office by the President in the manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court;

(c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India ”

STATEMENT OF OBJECTS AND REASONS

Under article 217 of the Constitution, every Judge of a High Court is appointed by the President after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court. The President and the Governor of a State are aided and advised by a Council of Ministers headed by the Prime Minister and the Chief Minister, respectively, in the exercise of their functions. In practice, therefore, mainly the nominees of the Council of Ministers headed by the Prime Minister or the Chief Minister of the State have been appointed Judges of the High Courts during the last twenty-eight years. This has led to the lowering of standards of the High Courts.

An independent Judiciary is the bulwark of democracy. With a view to ensuring an independent and impartial judiciary, it is imperative that appointments of judges are not dependent on the pleasure of the executive. The Bill seeks to achieve this object.

Hence this Bill.

BISHAMBHAR NATH PANDE,

BILL NO. IX OF 1978

A Bill to provide for the formation of an Authority for the purpose of setting up an atomic plant in the State of Bihar and for matters connected therewith.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Bihar Atomic Authority Act, 1978.

Establish-
ment of
Bihar
Atomic
Authority.

2. (1) The Central Government shall establish an Authority to be called the Bihar Atomic Authority.

(2) The Central Government shall, after due appropriation made by Parliament in this behalf, credit to the Bihar Atomic Authority (hereinafter referred to as the Authority), in each financial year such sums of money as the Government considers necessary for carrying out the purposes of this Act.

Composi-
tion of
the Autho-
rity.

3. The Authority shall consist of the following twenty-one members:—

(a) The Prime Minister, who shall be the *ex-officio* Chairman of the Authority;

(b) The Chief Minister of the State of Bihar, or in his absence, the Governor of Bihar who shall be the *ex-officio* Vice-Chairman of the Authority;

(c) Eighteen scientists, nine to be nominated by the Central Government and nine by the Government of Bihar in accordance with such procedure as may be prescribed by rules made under this Act; and

(d) One member, to be appointed by the Central Government in consultation with the Government of Bihar, who shall be the Director of the Authority.

4. The terms and conditions of service of members of the Authority referred to in clauses (c) and (d) of Section 3 shall be such as may be prescribed by rules made under this Act. . .

Terms of office and conditions of service of members of the Authority.

5. (1) The main function of the Authority shall be to set up an atomic plant at Jaduguda in the Hazaribagh District of the State of Bihar or at any other place in the said State as the members of the Authority may decide.

Functions of the Authority.

(2) The Authority may do such other acts as may be incidental, or conducive, to the discharge of its main function.

6. The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by rules made under this Act.

Meetings of the Authority.

7. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The State of Bihar has one of the richest areas in the world in nuclear raw material. The Jaduguda area in Hazaribagh district of the State has richest uranium deposits. But despite this, no atomic plant has been set up in Bihar so far.

The Bill seeks to establish an organisation, called the Bihar Atomic Authority, which will take appropriate steps for setting up an atomic plant in Bihar and for carrying out further intensive nuclear research.

SHIVA CHANDRA JHA.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to set up the Bihar Atomic Authority. Clause 4 of the Bill provides for prescribing terms and conditions of service of some members of the Authority. Clause 5 seeks to set up an atomic plant with a view to carrying out nuclear research. It is estimated that a sum of Rs. 10 crores will be required from the Consolidated Fund of India initially to set up the Authority and the atomic plant. A sum of about Rs. 2 crores per year will be required for meeting the recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill gives power to the Central Government to frame rules on the matters specified therein. This type of delegation is a normal feature in modern legislation. The delegation of legislative power is, therefore, of normal character.

S. S. BHALERAO,
Secretary-General.

